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6 IN THE UNITED STATES DISTRICT COURT FOR THE
7 EASTERN DISTRICT OF CALIFORNIA

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9 RAUL CARDENAS,) No. CV-F-05-565 REC
10) (No. CR-F-95-5030 MDC)
11) Petitioner,) ORDER DENYING PETITIONER'S
12) vs.) MOTION TO VACATE, SET ASIDE
13)) OR CORRECT SENTENCE PURSUANT
14) UNITED STATES OF AMERICA,) TO 28 U.S.C. § 2255 AND
15)) DIRECTING ENTRY OF JUDGMENT
16) Respondent.) FOR RESPONDENT
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On April 27, 2005, petitioner Raul Cardenas filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

Petitioner pleaded guilty pursuant to a written plea agreement to conspiracy to manufacture and distribute methamphetamine and to aiding and abetting the possession of methamphetamine with intent to distribute. Petitioner was sentenced on April 7, 1997 to 360 months incarceration. Petitioner did not appeal his conviction or sentence and has not previously filed a post-conviction motion challenging his

1 conviction or sentence.

2 In his Section 2255 motion, petitioner contends that he is
3 entitled to relief because the Supreme Court's decisions in
4 United States v. Booker, ___ U.S. ___, 125 S.Ct. 738 (2005) and
5 Blakely v. Washington, ___ U.S. ___, 124 S.Ct. 2531 (2004)
6 establish that the enhancements of his sentence pursuant to the
7 Sentencing Guidelines were unconstitutional.

8 Petitioner is not entitled to relief on this ground because
9 neither Booker nor Blakely have been made retroactively
10 applicable to cases on collateral review. See Cook v. United
11 States, 386 F.3d 949 (9th Cir. 2004); Green v. United States,
12 2005 WL 237204 (2nd Cir. 2005); McReynolds v. United States, 2005
13 WL 237642 (7th Cir. 2005); In re Anderson, 2005 WL 123923 (11th
14 Cir. 2005).

15 ACCORDINGLY:

16 1. Petitioner Raul Cardenas' motion to vacate, set aside or
17 correct sentence pursuant to 28 U.S.C. § 2255 is denied.

18 2. The Clerk of the Court is directed to enter judgment for
19 respondent.

20 IT IS SO ORDERED.

21 Dated: June 22, 2005
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22 /s/ Robert E. Coyle
UNITED STATES DISTRICT JUDGE

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